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8-9-03
PATENT
Customer No. 28852
Attorney Docket No. 03806.0509

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Céline FEGER et al.) Group Art Unit: 1654
)
Application No.: 09/920,810) Examiner: M. Meller
)
Filed: August 3, 2001)
)
For: DALFOPRISTINE/QUINUPRISTINE)
COMBINATIONS WITH CEFPIROME)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In reply to the restriction requirement dated May 20, 2003, the period for reply having been extended for one month by a request for extension and fee payment filed concurrently herewith, Applicants provide the following response.

The Examiner required restriction under 35 U.S.C. § 121 between Group I (claims 1-3, directed to a composition), Group II (claims 4-14, directed to a first method of using said composition), Group III (claim 15, directed to a second method of using said composition), Group IV (claims 16-17, directed to a first kit), and Group V (claims 18 and 19, directed to a second kit). Applicants elect to prosecute Group I, with traverse.

Applicants traverse the requirement on at least the ground that there would be no undue burden on the Office to examine the entirety of the closely related subject matter

as presently claimed. For example, as evidence of the close relationship of the subject matter, Applicants note that claim 1 (part of Group I) is directed to a

pharmaceutical composition comprising synergistically effective amounts of:

(A) cefpirome, and

(B) a dalfopristine/quiupristine combination,

and claim 4 (part of Group II) is directed to a

method comprising administering ... synergistically effective amounts of:

(A) cefpirome, and

(B) a dalfopristine/quiupristine combination,


as more specifically set forth in the claims. In view of the self-evident close relation of the subject matter, searches related to Group I (claims 1-3) and Group II (claims 4-14) would at least partially overlap. There is likewise similar substantive overlap with Groups III, IV, and V. Thus, given this overlap, examining all the claims together would not be an undue burden. Accordingly, reconsideration and withdrawal of the restriction requirement are respectfully requested.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: Monday, July 21, 2003

By: 
Mark J. Feldstein
Reg. No. 46,693

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